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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,077	05/09/2001	Michiaki Sakamoto	12873A	4429
23389	7590	10/20/2004	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA GARDEN CITY, NY 11530			NGUYEN, DUNG T	
			ART UNIT	PAPER NUMBER
			2871	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/852,077	Applicant(s) SAKAMOTO, MICHIAKI	
	Examiner Dung Nguyen	Art Unit 2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26,28-43,45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) 28-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26,42,43,45 and 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2871

DETAILED ACTION

Applicant's amendment dated 07/27/2004 has been received and entered. By the amendment, claims 26, 42-43, 45-46 are now pending in the application.

Applicant's arguments with respect to claims 26 have been considered but are moot in view of the new ground(s) of rejection as follow:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada et al., US Patent No. 5,852,485, in view of Hayase et al., US Patent No. 5,702,776.

Regarding claims 26, Shimada et al. disclose an in-plane switching liquid crystal display (LCD) device having:

- . a pair of substrate (21, 212);
- . a gate insulating layer (23)
- . a protection layer (e.g., channel protection layer 25) formed over the lower substrate (21)
- . a thin film transistor (TFT) formed on the lower substrate (21);
- . a color filter (218) formed over the protection layer (23);
- . a liquid crystal layer (217) formed between the color filter (218) and substrate (212);

Art Unit: 2871

. a common electrode (213) and a pixel electrode disposed between the color filter and the liquid crystal layer;

. an alignment layer (216).

Shimada et al. , however, neither disclose a flat color filter nor an insulating layer forming between the pixel electrode and the common electrode. Hayase et al. do disclose a color filter (10) having a flat surface formed on a lower substrate (11₁). Therefore, it would have been obvious to one skilled in the art at the time of the invention was made to employ a flat color filter in the Shimada et al. device as shown by Hayase et al., since it is a common practice in the LCD art in order to obtain a highly refined color filter in an LCD device (col. 2, ln. 8). In addition, one skilled in the art would have realized the desire to form an interlayer between two electrodes (e.g, pixel and common electrodes in different layers) for insulating such two electrodes.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to form a common electrode under an insulating layer and a pixel electrode over the insulating layer in order to avoid cross-talk between two different electrodes.

3. Claims 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada et al., US Patent No. 5,852,485, in view of Hayase et al., US Patent No. 5,702,776, further in view of Xu et al., US Patent No. 6,023,317.

Regarding the above claims, the modification to the Shimada et al. discloses the claimed invention as described above except for compensation films forming between a substrate and a polarizing film. Xu et al. do disclose in figures 1-3 that an optical compensation film (e.g, positive and/or negative) can be disposed between a substrate and a polarizing film. Therefore, it

Art Unit: 2871

would have been obvious to one skilled in the art to employ the optical compensation film in the Shimada et al. device in order to improve viewing characteristics (Xu et al., abstract).

4. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada et al., US Patent No. 5,852,485, in view of Hayase et al., US Patent No. 5,702,776, further in view of Kakinuma et al., US Patent No. 5,721,597.

Regarding claim 45, the modification to the Shimada et al. discloses the claimed invention as described above except for an organic material comprising monomers or oligomers added into the liquid crystal, and polymerized such liquid crystal compound. Kakinuma et al. disclose a liquid crystal layer can be formed by mixing monomers (or oligomers) into the liquid crystal, then polymerizing such liquid crystal compound (col. 6, lines 36-39). Therefore, it would have been obvious to one skilled in the art to employ the Shimada et al. liquid crystal layer by polymerizing a liquid crystal compound including liquid crystal and monomers or oligomers in order to improve the high speed response in an LCD device (col. 10, ln. 21).

5. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada et al., US Patent No. 5,852,485, in view of Hayase et al., US Patent No. 5,702,776, further in view of Shim et al., US Patent No. 6,181,402.

Regarding claim 46, the modification to the Shimada et al. discloses the claimed invention as described above except for the vertical orientation films. Shim et al. disclose a homeotropic LCD device by forming vertical alignment layers as shown in figure 3A. Therefore, it would have been obvious to one skilled in the art at the time of the invention was made to modify the Shimada et al. device having a vertical alignment layer as shown by Shim et al. in order to obtain an LCD device having a wide viewing angle (col. 2, line 11).

Art Unit: 2871

It should be noted that the method of manufacturing the device is merely a list of forming each component and each component must be formed to make the device; therefore, the method of manufacturing as stated above would be inherent to the device.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung Nguyen whose telephone number is 571-272-2297. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2871

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DN
10/18/2004

Dung Nguyen
Primary Examiner
Art Unit 2871